

**DELEGATED REPORT OF THE GROUP DIRECTOR, CHIEF EXECUTIVE'S
DIRECTORATE**

**AUTHORITY TO APPOINT THE MAIN CONTRACTOR FOR BUCKLAND
STREET**

KEY DECISION NO. NH Q74

MEETING DATE

5 December 2022

CLASSIFICATION:

Open with Exempt Appendices 1 and 2

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

Hoxton West

REASON

Spending

GROUP DIRECTOR

Mark Carroll, Group Director, Chief Executive's Directorate

1. SUMMARY

- 1.1 The Buckland Street project secured planning permission in September 2020 (Planning Reference: 2020/1576). In line with the primary objective of the Housing Supply Programme (HSP), to deliver at least 50% genuinely affordable housing, the Buckland Street project will deliver a mixed tenure scheme including 67% genuinely affordable housing, a new commercial unit, and new public realm and landscape including improved facilities for play and recreation.
- 1.2 The report prepared for the October 2020 Cabinet Procurement Committee (CPC) set out in detail the procurement strategy and background to the Buckland Street project (please refer to Key Decision NH Q74).
- 1.3 As set out in the above report (Key Decision NH Q74), CPC approved the business case for the selection of a contractor for the construction of mixed tenure housing at Buckland Street. That is, to undertake procurement for this works contract by way of a mini competition from Lot 6 of the Hyde National Framework Partnership; and delegate the authority to the Group Director of Neighbourhoods and Housing, and where required in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, to award the contract for the main works package for Buckland Street.
- 1.4 Following the reorganisation of the Council's senior leadership structure effective from 1 November 2020 (including transfer of the Regeneration function to the Chief Executive's Directorate), the delegated authority to award this contract now rests with the Group Director, Chief Executive's Directorate, in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services.
- 1.5 Approval to appropriate the land at Buckland Street for planning purposes was granted at Cabinet on 19 July 2021.

2. RECOMMENDATION(S)

In accordance with Key Decision NH Q74, this Delegated Powers Report recommends that:

- 2.1 **The Group Director, Chief Executive's Directorate, after consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, authorises the award of contract for the main works package at Buckland Street to Bidder B as set out in Exempt Appendix 1 and Exempt Appendix 2.**
- 2.2 **The Group Director, Chief Executive's Directorate, agrees to enter into a JCT Design and Build contract 2016 and any other ancillary legal**

documentation relating thereto with Bidder B for the main works at Buckland Street under such terms as shall be agreed by the Director of Legal and Governance Services, and the Director of Legal and Governance Services shall prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained within this report, Exempt Appendix 1 and Exempt Appendix 2.

3. REASONS FOR DECISION

- 3.1 This report outlines the process that has been followed in selecting a preferred contractor for the main works for Buckland Street.
- 3.2 The parcel of land to be developed at the Buckland Street site is currently occupied by garages and hard standing car parking.
- 3.3 The redevelopment of Buckland Street represents an opportunity to deliver increased numbers of residential units in order to maximise the use of underused council owned land. There will also be new public realm and landscape as well as improved access, which will help integrate new and existing buildings. A new play area will promote play in the community.
- 3.4 The main works contract for Buckland Street requires the successful contractor to deliver:
- 22 social rented homes;
 - 14 shared ownership homes;
 - 18 outright sale homes;
 - a new commercial unit: and
 - associated public realm and landscape works including improved facilities for play and recreation.
- 3.5 Authority to award the main works contract for Buckland Street by delegated powers was sought in order to ensure that the Council meets the construction deadlines for the Mayor of London's Building Council Homes for Londoners: Affordable Homes Programme. The construction deadlines have since altered, but nevertheless it is important that this contract is awarded as soon as possible in order to secure the best value price for the works.
- 3.6 A separate tender process to appoint a demolition contractor for the Buckland Street garages commenced in July 2020 and concluded with a preferred bidder being selected in October 2020. The award of contract and commencement of structural demolition is pending whilst necessary precondition works are concluded.
- 3.7 The Council will act as developer for the outright sale and shared ownership homes at Buckland Street, marketing and disposing of them in line with the Council's approved Sales and Marketing Framework.

- 3.8 A market review and marketing strategy will be produced for each sales phase, with authority to proceed to market properties delegated to the Group Director of the Chief Executive's Directorate and Group Director of Finance and Corporate Resources.
- 3.9 A pre-tender cost plan was prepared for the Council by its external Quantity Surveyor (QS), setting out the estimated costs of construction, based on the pre-tender stage estimate and designs developed to RIBA Stage 3+. The pre-tender costs pertaining to the works are set out in Exempt Appendix 2.
- 3.10 It is proposed that the Council will enter into a JCT Design and Build Contract 2016 with Bidder B, with Hackney Council standard amendments.
- 3.11 It is proposed that under such JCT contract, Bidder B initially thereafter undertakes a cost optimisation exercise in line with their tender submission.

4. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 4.1 The pre-tender estimate for the works is above the EU Threshold for Works of £4,733,252 and is therefore subject to the Public Contracts Regulations 2015 (PCR2015). An Open Procedure, Restricted Procedure and a Competitive Procedure with Negotiation were considered. However, the timeframe for using these procedures would have been too lengthy and would have risked missing the construction deadlines for GLA funding. For this reason, these options were disregarded.
- 4.2 Using an OJEU compliant Framework which has medium to large sized building contractors was considered a favourable option given the potential to reach a good number of suitable contractors for this medium sized development. A range of EU compliant Frameworks were reviewed with the Council's Employer's Agent, Regeneration Strategic Design team and Procurement Services.
- 4.3 The Southern Housing Group Framework, Lot 2 and the Hyde National Framework Partnership, Lot 6, were selected for soft market testing using the Council's e-tendering portal, ProContract. The results were positive, with a better range of suitable contractors on the Hyde National Framework Partnership, Lot 6, compared to the Southern Housing Group, Lot 2.
- 4.4 The procurement strategy was agreed by CPC in October 2020 (Key Decision NH Q74) to proceed with Lot 6 of the Hyde National Framework Partnership, as the most suitable procurement route for Buckland Street. The decision was taken to procure the garage demolition works ahead of the main works, to minimise project delays and risks.

5. PROCUREMENT PROCESS AND EVALUATION

5.1 Tender Process

5.1.1 The procurement route undertaken for the Buckland Street main works contract was by way of a mini competition from Lot 6 of the Hyde National Framework Partnership. This comprised:

- (i) Expression of Interest
- (ii) Invitation to Tender.

5.1.2 The Evaluation Panel for the tender process comprised:

- Project Manager, Regeneration (LBH)
- Project Officer, Regeneration (LBH)
- Head of Strategic Design, Regeneration (LBH)
- Head of Sales and Marketing (LBH)
- Regeneration Employer Engagement Officer (LBH)
- Regeneration Communications Manager (LBH)
- Employer's Agent (EA) and Principal Designer (calfordseaden LLP, acting on behalf of the Council)
- Quantity Surveyor/Cost Consultant (calfordseaden LLP).

5.13 The procurement process was managed and coordinated by the Council's Procurement team.

(i) Expression of interest

5.1.4 A call for an Expression of interest was issued to all contractors on Lot 6 the Hyde National Framework Partnership on 12 October 2021. Seven responses were received.

(ii) Invitation to Tender

5.1.5 The Invitation to Tender (ITT) documents were published on the e-tendering portal, ProContract, on 13 November 2020 to all interested contractors on the Hyde National Framework Partnership. Contractors were required to submit bids by 15 March 2021. ProContract Ref. DN507270.

Tender Evaluation

5.1.6 Two bids were received by the deadline, and were deemed compliant and were fully evaluated.

5.1.7 The tenders were evaluated on the basis of 60:40 price:quality.

5.1.8 Following the submission of bids, post tender clarifications on the submissions were raised with bidders via ProContract, by the EA and the

Quantity Surveyor, to clarify any errors in the tenders submitted or any apparent inconsistencies prior to the evaluation process.

Quality Evaluation - 40%

5.1.9 For the Quality element, bidders were required to set out eight Method Statements addressing the following quality criteria:

- Programme;
- Project delivery;
- Project risks;
- Site logistics;
- Design integrity & design team;
- Community engagement;
- Local employment, training, and supply chain;
- Innovation and Added Value; and
- Commitment to paying the London Living Wage (pass/fail criterion).

5.10 Quality responses were evaluated by the panel and scored 0-5 based on the scoring methodology set out in the tender, as detailed in the table below. The scores were moderated, and the final scores reached.

5.11 Further details regarding the quality evaluation can be found in Exempt Appendix 2.

Evaluation Scoring Methodology

Score Band	Rationale	General Description
0	Response contains insufficient information to make a judgement, or is otherwise wholly unsatisfactory	Wholly unsatisfactory
1	Response contains significant omissions, weaknesses or concerns, or is otherwise unsatisfactory	Unsatisfactory
2	Response contains some omissions, weaknesses or concerns	Cause for concern
3	Response indicates passable or acceptable confirmation of relevant skill and credibility	Acceptable
4	Response indicates a significant and appropriate level of relevant skill and credibility	Good

5	Response indicates excellent level of relevant skill and credibility	Excellent
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Price Evaluation - 60%

- 5.12 The Tender prices submitted were scored using the published pricing evaluation methodology; whereby the lowest priced bid achieves the highest score of 60%, with the other prices scored relative to the highest scored price.
- 5.13 The prices were also assessed against the pre-tender estimates that had been prepared by the Employer's Agent and Quantity Surveyor.
- 5.14 To conclude the evaluation process, the overall scores achieved by each submission were based on the combined scores for quality and price.

Post Tender Clarifications to achieve Cost Optimisation:

- 5.15 Both bidders had made reference to possible cost savings within their bids. A Post Tender Clarification was issued to both bidders, to establish proposed cost savings that could be achieved. This element and response was not scored.

5.2 Recommendation

- 5.2.1 A summary of the quality and price scores for each tender, and the respective total overall scores are set out in the table below:

	Quality (40%)	Price (60%)	Total (100%)
Bidder A	21.43%	60%	81.43%
Bidder B	35.67%	53.73%	89.40%

- 5.2.2 Bidder B achieved the higher score overall and emerged as the preferred bidder, as their bid was deemed to be the Most Economically Advantageous Tender.
- 5.2.3 On the basis of the above scores it is recommended that the contract for the main works at Buckland Street is awarded to Bidder B.

6.0 POLICY CONTEXT

- 6.1 A Cabinet report in October 2015 presented an update on the delivery of the Estate Regeneration Programme and introduced an outline proposal for a new Housing Supply Programme (HSP). This new Council-led initiative was introduced to contribute to meeting the commitments of the 2014 Mayoral

manifesto, including building new affordable homes for local people with a focus on social rent and shared ownership.

- 6.2 In February 2016 Cabinet approved the HSP, which sets out to deliver high quality affordable homes on council owned sites. The HSP is currently set to deliver 696 new homes across 10 sites and 18 refurbished homes across 2 sites.
- 6.3 The Council's Sustainable Community Strategy 2018-2028 has five priorities, and the Buckland Street development assists in meeting those priorities in the following ways.
- 6.4 The first priority is centred around creating an area where everyone can enjoy a good quality of life and where the whole community can benefit from growth. The Buckland Street development will provide a mix of homes with differing levels of affordability, which caters to all ages and accommodates people's changing needs over time.
- 6.4 In line with the second priority, the construction of the Buckland Street development will create jobs, training and apprenticeship opportunities for local people, which will allow residents and businesses to fulfil their potential and enjoy the benefits of increased prosperity.
- 6.5 In line with the third priority, the designs for the Buckland Street development are centred around creating a greener and more environmentally sustainable community, for example through the provision of high quality public realm and landscaping, which contributes to enhancing biodiversity. The energy strategy for the scheme will also seek to reduce carbon emissions through the use of air-source heat pump technology, thereby contributing to the third priority of the strategy: a greener and environmentally sustainable community which is prepared for the future.
- 6.6 The fourth priority of creating an open, cohesive, safer and supportive community will be achieved through the provision of improved landscaping and new play areas as part of the development; as well as offering employment and training opportunities during the construction phase, for example local labour, apprenticeship, and Hackney 100 placements. The scheme will also provide a new commercial space that will be let to businesses to provide local facilities.
- 6.7 The proposed improvements to the public realm will help create a healthy and safer neighbourhood which is pedestrian, cyclist and child friendly to support the fifth priority relating to promoting healthy and active residents.
- 6.8 Hackney's Local Plan 2033 (LP33) seeks to maximise opportunities to supply genuinely affordable housing on new developments, subject to viability and site context. The development of the Buckland Street site will contribute to delivering the Council's aspirations to make best use of council land by

building new social rented and low-cost home ownership homes, enabling the Council to better meet the housing needs of the local community and contribute towards the delivery of more genuinely affordable housing, supporting the objectives of LP33.

7.0 EQUALITY IMPACT ASSESSMENT

- 7.1 The shortage of affordable housing is a significant issue within Hackney, with 3,000 households living in temporary accommodation and nearly 13,000 on the housing waiting list. Of the new homes on Buckland Street, 67% will be genuinely affordable - 22 social rented and 14 shared ownership homes - and will therefore contribute towards meeting some of this housing need.
- 7.2 The Housing Supply Programme proposes to build new mixed communities that are better integrated with their surrounding areas and have well designed homes, improved community facilities, and safer, more attractive environments; enhancing the quality of life of many residents, which supports the borough in meeting its Public Sector Equality Duty.
- 7.3 The Council is committed to building new homes that are adaptable to the varying needs of occupiers over time and that will enable people to live independently in their homes for longer. The housing mix for the Buckland Street development has been considered in line with housing needs of the St John Estate. The development contains five homes that meet Part M4 (3) – ‘wheelchair user dwellings and adaptable dwellings’ and 49 homes that meet the M4 (2) requirements.
- 7.4 All of the shared ownership and outright sale homes will be marketed in line with Hackney’s Sales and Marketing Strategy, which gives priority to those who live and/or work in the borough.

8.0 SUSTAINABILITY & SOCIAL VALUE

- 8.1 The Buckland Street scheme will provide high quality housing and commercial space, as well as new and improved landscaping and public realm, enhancing the ecological value and biodiversity of the site. The scheme also aligns with Hackney’s Transport Strategy and TfL’s Healthy Streets Indicators, aiming to prioritise walking and cycling, providing safe environments with opportunities for play, shade and shelter, and opportunities to rest in a clean environment.
- 8.2 The development will be car-free with substantial provision of cycle parking, a car club space and electric vehicle charging points. In addition, the project will be delivering new and upgraded, attractive pedestrian and cycle routes across the site.

- 8.3 The new buildings for the Buckland Street development will provide high quality, energy efficient homes that meet current regulatory requirements relating to sustainability including Building Regulations, the Mayor's London Plan and the Council's Housing SPG. The new homes have been designed with Air Source Heat Pumps (ASHP) to achieve the required energy levels in accordance with current London Plan energy targets, and to support the transition from fossil fuels to renewable energy.
- 8.4 During the demolition and enabling works, the soil on the site will be tested for contamination and remediated appropriately.
- 8.5 The recycling of construction waste and the development of a Site Waste Management Plan are mandatory, and the preferred contractor has committed to minimising construction waste as much as possible.
- 8.6 The contractor will be obliged to minimise construction related disruption, for example dust nuisance, to residents and other neighbouring buildings.
- 8.7 A Construction Management Plan covering construction traffic management, noise, dust and vibration will be submitted to the Local Planning Authority and will require approval prior to works commencing.
- 8.8 The appointed Contractor will be required to provide local training and employment opportunities, for which a number of Key Performance Indicators (KPIs) have been established. KPIs will be monitored regularly at site meetings. The contractor and Employer's Agent (EA) will provide information that will form the basis of each score, which will be documented at each meeting. The contractor will undertake to use reasonable endeavours to source materials from local suppliers and manufacturers, and has been encouraged to use small and medium sized businesses in its supply chain.
- 8.9 The appointed contractor will be required to provide the Council with a local labour return for the scheme every three months during the construction phase and must notify the Council's Hackney Works team of all vacancies for employees, self-employed, sub-contractors and any other form or type of employment or service arising from construction of the development. The Council will endeavour to find suitable candidates to put forward for these roles, within five working days, unless otherwise agreed in advance. After such time vacancies can be filled through alternative channels.
- 8.10 As part of the Unilateral Undertaking, a sum of £23,048.10 will be paid as a planning obligation to Hackney Works as a contribution towards the cost of training and supporting out of work residents into jobs during the construction/demolition phase of the development.
- 8.11 The preferred bidder has committed to paying all of its staff and subcontractors the London Living Wage, for the term of the contract.

9.0 CONSULTATIONS

9.1 Extensive consultation has been undertaken with the relevant bodies representing residents and neighbouring buildings from the estate, Ward Councillors and local residents. These have been in the form of public engagement events and meetings at various stages of the project prior to planning submission. Statutory consultation has also been undertaken as part of the Planning application.

9.2 Key stakeholders include:

- Local residents including tenants and leaseholders of neighbouring buildings
- Hoxton West Ward Councillors
- LBH staff managing and maintaining the estate.

9.3 Key stakeholders were consulted within the Council, to discuss specific aspects of the proposed scheme. Comments made at these meetings have been incorporated into the design, where possible. These include:

- Planning
- Highways
- Strategic Property Services
- Refuse and Recycling
- Sales and Marketing
- Housing Services.

9.4 Officers will continue to consult with local residents and other key stakeholders throughout the key stages of the project.

10.0 RISK ASSESSMENT

10.1 In line with best practice, the Project Team has a risk management plan for the project. It defines in detail the risk management process to be used, and the various activities together with those responsible for the application of the process. This is consistent with the requirements of the Council's risk management quality procedures. Potential risks to the project are identified, assessed, monitored and reported on a quarterly basis.

11.0 COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

11.1 The report recommends awarding the construction contract for the Buckland Street site to Bidder B, who scored highest overall. The price of the bid was higher than the pre-tender estimate and so the cost optimisation period will

be used to try and reduce these costs down to a point that is acceptable and which doesn't compromise the viability of the programme overall.

- 11.2 Looking at the Buckland Street and Wimbourne Street sites together, if the savings suggested by Bidder B are achieved, then the viability overall will have worsened by around £1.3m compared to pre-tender estimates. It is possible that sales price inflation will offset this, however in the event that this inflation is not sufficient, savings will need to be made on another site within the HSP to maintain agreed viability levels across the programme. Project Finances will be revisited following the cost optimisation period.
- 11.3 It should be noted that there is risk exposure relating to the cost optimisation period as set out in Exempt Appendix 1 and Exempt Appendix 2. Taking account of the very challenging market conditions currently being experienced, the fee being a small percentage of the total contract value and the likelihood of costs increasing if procurement is re-started, this risk is accepted.
- 11.4 Entering into the build contract with conditions as set out in Exempt Appendix 1, is therefore accepted.

12.0 COMMENTS OF THE DIRECTOR OF LEGAL, DEMOCRATIC AND ELECTORAL SERVICES

- 12.1 On 5 October 2020 Cabinet Procurement Committee agreed that, in respect of the development at Buckland Street, that authority be delegated to the Group Director of Neighbourhoods and Housing, to agree the Contract Award, and in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, to meet the GLA's programme requirements.
- 12.2 Following the reorganisation of the Council's senior leadership structure effective from 1 November 2020 (including transfer of Regeneration to the Chief Executive's Directorate), the delegated authority to approve this decision rests with the Group Director, Chief Executive's Directorate, and in consultation with the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services.
- 12.3 This Report sets out the details of the evaluation of the tenders for the main works package of such development and therefore the Group Director, Chief Executive's Directorate, having consulted the Group Director of Finance and Corporate Resources and the Director of Legal and Governance Services, is authorised to award the works contract in this Report.
- 12.4 Authority to award the main works contract by delegated powers was sought in order to ensure that the Council meets the construction deadlines agreed with the Greater London Authority (GLA). The construction deadlines have

since altered, but nevertheless it is important that this contract is awarded as soon as possible in order to ensure that the tender period does not expire and therefore secure the best value price for the works. A delegated powers report can be agreed outside of the usual cycle of Cabinet Procurement and Insourcing Committee and provides more flexibility in the timing of the contract award and, it is hoped, helps the Council meet the targets for this project.

- 12.5 The Council used the Hyde National Framework Partnership (Lot 6) to procure the works in this Report. Details of the evaluation exercise are set out herein.
- 12.6 Details of contract conditions to be proposed to Bidder B, subject to contract award, are set out in Exempt Appendix 1.

13.0 COMMENTS OF THE CATEGORY LEAD PROCUREMENT

- 13.1 This contract is being procured via a Framework in compliance with the Public Contracts Regulations 2015 and the form of contract will be under the JCT, with Hackney amendments.
- 13.2 A comprehensive tender evaluation was completed and officers were supported by their specialised advisors.
- 13.3 The tenders were designed to support the changes to Building Information Management Regulations (through a provisional sum) which will provide for a golden thread from design to everyday management at project handover.

APPENDICES

Exempt Appendix 1 - Buckland Street - Contract Conditions

Exempt Appendix 2 - Buckland Street Tender Analysis REport

EXEMPT

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 the appendices are exempt because it contains Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

None

Report Author	Bronwen Thomas Project Manager - Regeneration Bronwen.Thomas@hackney.gov.uk
Comments for and on behalf of the Group Director of Finance and Corporate Resources	Simon Theobald: 0208 356 4304 Head of Finance simon.theobald@hackney.gov.uk
Comments for and on behalf of the Director of Legal, Democratic and Electoral Services	Patrick Rodger: 020 8356 6187 Senior Lawyer, Legal Services patrick.rodger@hackney.gov.uk
Comments of Procurement Category Lead	Candace Bloomfield Category Lead for Regeneration, Property, Construction and Environment candace.bloomfield@hackney.gov.uk

AUTHORISATION OF GROUP DIRECTOR, CHIEF EXECUTIVE'S DIRECTORATE

Name: Mark Carroll, Group Director, Chief Executive's Directorate

Signature:



Date: 9th November 2021